

RICHARD HERRERA #712197	§	
v.	§	CIVIL ACTION NO. 6:14cv892
JODY HEFNER, ET AL.	§	

The Plaintiff Richard Herrera, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. After review of the pleadings, the magistrate judge issued a report recommending that the lawsuit be dismissed with prejudice as frivolous and for failure to state a claim upon which relief may be granted, except that the Plaintiff's retaliation claims were recommended for dismissal without prejudice.

A copy of this report was sent to Herrera at his last known address, return receipt requested, but no objections have been received, although Herrera has filed a notice of appeal. This notice does not specify any grounds for the appeal or identify any specific portions of the report to which Herrera objects. Accordingly, Herrera is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the record in this cause and the report of the magistrate judge. Upon such review, the Court has determined that the report of the magistrate judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a magistrate judge’s report are filed, the standard of review is “clearly erroneous, abuse of discretion and contrary to law.”). It is accordingly


ORDERED that the report of the magistrate judge (docket no. 28) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled civil action is **DISMISSED WITH PREJUDICE** for purposes of proceeding *in forma pauperis* as frivolous and for failure to state a claim upon which relief may be granted, except that the Plaintiff's retaliation claims are **DISMISSED WITHOUT PREJUDICE**. 28 U.S.C. §1915A. It is further

ORDERED that the Clerk shall send a copy of this order to the Administrator of the Three Strikes List for the Eastern District of Texas. Finally, it is

ORDERED that any and all motions which may be pending in this action are hereby **DENIED**.

SIGNED this 21st day of January, 2016.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE